

**AN ORDINANCE
BY FINANCE/ EXECUTIVE COMMITTEE**

AN ORDINANCE, TO AUTHORIZE THE EXECUTION OF A FIRST SUPPLEMENTAL INDENTURE OF TRUST TO AMEND THE INDENTURE OF TRUST EXECUTED IN CONNECTION WITH THE ISSUANCE OF THE TAX ALLOCATION BONDS (PRINCETON LAKES PROJECT), SERIES 2006 (THE "PRINCETON LAKES BONDS"); AND FOR CERTAIN OTHER PURPOSES.

WHEREAS, the City of Atlanta, Georgia (the "City") is a municipal corporation of the State of Georgia and a "political subdivision" as defined in Chapter 44 of Title 36 of the Official Code of Georgia Annotated, as amended (the "Redevelopment Powers Law"); and

WHEREAS, the City is authorized pursuant to the Constitution of the State of Georgia and the various statutes of the State of Georgia, including specifically the Redevelopment Powers Law, to issue its tax allocation bonds in order to finance certain Redevelopment Costs, as defined in the Redevelopment Powers Law; and

WHEREAS, in order to encourage the development of an economically and socially depressed area in the City, the City Council by Resolution 02-R-1775, adopted on November 18, 2002, and signed by the Mayor on November 26, 2002 (the "Resolution"), among other matters, (i) adopted the Princeton Lakes Redevelopment Plan pursuant to the authority granted the City under the Constitution and the laws of the State of Georgia, including particularly the Redevelopment Powers Law (ii) created Tax Allocation District Number Four — Princeton Lakes (the "Princeton Lakes TAD") and (iii) authorized the pledge of positive ad valorem tax allocation increments derived from the Princeton Lakes TAD for the payment or as security for the payment of tax allocation bonds; and

WHEREAS, pursuant to the Redevelopment Powers Law, the City is authorized to finance certain Redevelopment Costs, including without limitation, (i) clearing, grading and otherwise preparing property for redevelopment, (ii) environmental remediation of property, (iii) design, construction and installation of utilities such as water, sewer, storm drainage, electric, gas and telecommunications, (iv) design, construction and installation of streets, sidewalks, bikeways, curbs, gutters and other public works, (v) design and construction of parking facilities and (vi) any other facilities and improvements located in or otherwise related to the Princeton Lakes TAD that are eligible to be financed or refinanced as Redevelopment Costs under the Redevelopment Powers Law; and

WHEREAS, on March 15, 2006, the City issued the Princeton Lakes Bonds in an aggregate principal amount of \$21,000,000 in accordance with Ordinance 06-0-0263, adopted and signed by the Mayor on February 9, 2006 (the "Financing Ordinance"); and

WHEREAS, the Princeton Lake Bonds were issued pursuant to an Indenture of Trust (the "Initial Indenture") between the City and U.S. Bank National Association, as trustee (the "Trustee"); and

WHEREAS, in addition to extraordinary mandatory redemption from unexpended bond proceeds and mandatory sinking fund redemption, the Initial Indenture provides for (i) the redemption of the Princeton Lakes Bonds, at the option of the City, on any date on or after January 1, 2016 and (ii) extraordinary mandatory redemption of the Princeton Lakes Bonds from excess Tax Allocation Increments on July 1, 2016 and each July 1, thereafter; and

WHEREAS, certain excess moneys currently are available under the Initial Indenture and the Special Fund; and

WHEREAS, it would be in the economic interest of the City to utilize such excess moneys to pay down Princeton Lakes Bonds prior to the first permissible optional redemption date and extraordinary mandatory redemption date described above; and

WHEREAS, the Initial Indenture provides for the amendment thereof upon the receipt of the consent of the owners of at least a majority of the aggregate principal amount of the Princeton Lakes Bonds then outstanding; and

WHEREAS, the owners of more than a majority of the Princeton Lakes Bonds currently outstanding have agreed to the amendment of the Initial Indenture to provide for the purchase and cancellation of Princeton Lakes Bonds with excess moneys under the Initial Indenture and excess Tax Allocation Increment on deposit in the Special Fund.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA HEREBY ORDAINS as follows:

Section 1.01. Authority for Ordinance. This Ordinance is adopted pursuant to the provisions of the Constitution and the laws of the State of Georgia.

Section 1.02. Findings. It is hereby ascertained, determined and declared that it is in the economic interest of the City to amend the Initial Indenture to provide for the purchase and cancellation of the Princeton Lakes Bonds with excess moneys available under the Initial Indenture and excess Tax Allocation Increment on deposit in the Special Fund.

Section 1.03. Authorization of First Supplemental Indenture. The execution, delivery and performance of the First Supplemental Indenture of Trust, by and between the City and the Trustee (the "First Supplemental Indenture") are hereby authorized. The First Supplemental Indenture shall be in substantially the form attached hereto as Exhibit I, subject to such minor changes, insertions or omissions as may be approved by the Mayor, and the execution of the First Supplemental Indenture by the Mayor and Municipal Clerk as hereby authorized shall be conclusive evidence of any such approval.

Section 1.04. No Personal Liability. No stipulation, obligation or agreement herein contained or contained in the Initial Indenture or the First Supplemental Indenture shall be deemed to be a stipulation, obligation or agreement of any officer, director, agent or employee of the City in his individual capacity.

Section 1.05. General Authority. From and after the execution and delivery of the documents hereinabove authorized, the proper officers, directors, agents and employees of the

City are hereby authorized, empowered and directed to do all such acts and things and to execute all such documents as may be necessary to carry out and comply with the provisions of the documents as authorized herein and are further authorized to take any and all further actions and execute and deliver any and all other documents and certificates as may be necessary or desirable in connection with the execution of the First Supplemental Indenture and in conformity with the purposes and intents of this Ordinance.

Section 1.06. Actions Approved and Confirmed. All acts and doings of the officers of the City which are in conformity with the purposes and intents of this Ordinance and in furtherance of the execution, delivery and performance of the First Supplemental Indenture, shall be, and the same hereby are, in all respects approved and confirmed.

Section 1.07. Severability of Invalid Provision. If any one or more of the agreements or provisions herein contained shall for any reason whatsoever be held invalid, then such covenants, agreements or provisions shall be null and void and shall be deemed separable from the remaining agreements and provisions and shall in no way affect the validity of any of the other agreements and provisions hereof or of the First Supplemental Indenture authorized hereunder.

Section 1.08. Repealing Clause. All ordinances or parts thereof of the City in conflict with the provisions herein contained are, to the extent of such conflict, hereby superseded and repealed.

Exhibit I
Form of First Supplemental Indenture

FIRST SUPPLEMENTAL INDENTURE OF TRUST

THIS FIRST SUPPLEMENTAL INDENTURE OF TRUST (this "Supplemental Indenture") is made and entered into as of _____ 1, 2010 by and between the **CITY OF ATLANTA, GEORGIA**, a municipal corporation of the State of Georgia (the "State"), and **U.S. BANK NATIONAL ASSOCIATION**, a national banking association organized under the laws of the United States of America and having a corporate trust office in Atlanta, Georgia, together with any successor, as trustee (the "Trustee").

WITNESSETH:

WHEREAS, the City issued its Tax Allocation Bonds (Princeton Lakes Project), Series 2006 (the "Bonds") pursuant to an Indenture of Trust, dated as of February 1, 2006 (the "Indenture"), by and between the City and the Trustee; and

WHEREAS, the Indenture provides that, subject to the terms and conditions contained therein, the Indenture may be modified or amended upon the receipt of the consent of the owners of at least a majority in aggregate principal amount of the Bonds then outstanding; and

WHEREAS, all conditions precedent to the amendment of the Indenture have been satisfied.

NOW, THEREFORE, THIS SUPPLEMENTAL INDENTURE WITNESSETH:

ARTICLE I

DEFINITIONS

Unless otherwise defined herein, all words and phrases defined in the Indenture shall have the same meaning in this Supplemental Indenture.

ARTICLE II

AMENDMENT

Section 2.01. Section 5.02 of the Indenture is hereby amended by deleting Section 5.02 in its entirety and by adding in its place a new Section 5.02 to read in its entirety as follows:

Section 5.02. Special Fund; Tax Increment Fund.

(a) All Tax Allocation Increments shall be deposited in the Special Fund when received by the City. On the date of issue of the Bonds, all Tax Allocation Increments then on deposit in the Special Fund shall be transferred to the Trustee and deposited in the funds and accounts hereunder as provided in Section 2.06(c).

(b) On the fifth (5th) Business Day preceding each January 1, the City shall transfer to the Trustee for deposit in the Tax Increment Fund all Tax Allocation Increments then on deposit in the Special Fund that are attributable to taxes levied and collected for the then current Fiscal Year. In addition, during each Fiscal Year the City shall also transfer to the Trustee on the first Business Day of each month for deposit in the Tax Increment Fund all additional Tax Allocation Increments that have been collected and deposited in the Special Fund during the then current Fiscal Year that are attributable to taxes levied for the immediately preceding Fiscal Year. Upon written notice from the Trustee, the City also shall transfer from the Special Fund such amounts required pursuant to the provisions of Section 5.04 to cure deficiencies in the Debt Service Reserve Fund. If the Trustee does not receive the moneys on deposit in the Special Fund on the dates set forth for such deposits in this Section 5.02(b), the Trustee shall notify the Chief Financial Officer of such failure and the City shall cure such failure within two (2) Business Days of receipt of such notice from the Trustee.

(c) The Trustee shall use the moneys received from the City pursuant to paragraph (b) above and deposited in the Tax Increment Fund to make the following transfers on or before January 1 of each year in the following order of priority, subject to credits as provided in this Section:

(i) The Trustee shall transfer to the Interest Account such amount, if any, as may be required to make the total amount on deposit therein equal to the total amount of interest that will become due on the Bonds on the Interest Payment Dates occurring during the next succeeding Fiscal Year.

(ii) The Trustee shall transfer to the Principal Account such amount, if any, as may be required to make the total amount on deposit therein equal to the total amount of principal of the Bonds maturing, or subject to mandatory sinking fund requirements, during the next succeeding Fiscal Year.

(iii) The Trustee shall transfer to the Debt Service Reserve Fund such amount as to cause the amount on deposit therein to equal the Debt Service Reserve Fund Requirement.

(iv) The Trustee shall pay the fees due the Trustee pursuant to Section 10.02 then due and payable.

(v) The Trustee shall pay to the related Developer an amount sufficient to reimburse such Developer for any deposit to the Capitalized Interest Account pursuant to Section 3.01(b) hereof, but only to the extent that such deposit was derived from funds of such Developer.

(vi) The Trustee shall transfer to the City any remaining moneys on deposit in the Tax Increment Fund for redeposit in the Special Fund; provided, however, that (A) prior to January 1, 2016, any remaining moneys may be applied to the payment of the purchase price of Bonds tendered for purchase pursuant to paragraph (d) of this Section 5.02, and (B) on and after January 1, 2016, any

remaining moneys shall be transferred to the Redemption Account and used to redeem Bonds in accordance with Section 3.01(d) hereof on the next subsequent July 1.

(d) At the option of the City, to be exercised on or before March 1 of each calendar year, the City may apply amounts redeposited in the Special Fund pursuant to Section 5.02(c)(vi)(A) to the purchase of Bonds at a price not exceeding the principal amount thereof plus accrued interest to the date of purchase to the same extent and in the same manner as set forth in Section 3.01(b) hereof with respect to the purchase of Bonds subject to sinking fund redemption. Any Bonds purchased shall be cancelled by the Trustee. The City shall receive a credit against its future sinking fund redemption obligations for any Bonds purchased pursuant to this paragraph (d) in the same manner as provided in Section 3.01(e) hereof.

Section 2.02. Section 5.03 of the Indenture is hereby amended by deleting Section 5.03 in its entirety and by adding in its place a new Section 5.03 to read in its entirety as follows:

Section 5.03. Bond Fund; Priority of Payments to Bond Fund; Use of Moneys in Bond Fund.

(a) The Trustee shall make payments to the Bond Fund (and the Accounts therein) in the following order of priority:

(i) First, from moneys received from the City pursuant to Section 5.02(b), which moneys shall be deposited to the Interest Account and the Principal Account as provided in Section 5.02(c).

(ii) Next, during the period beginning on the date of issuance of the Bonds, and ending on January 1, 2008, from moneys on deposit in the Capitalized Interest Account, which moneys shall be deposited to the Interest Account.

(iii) Next, the Trustee shall use moneys transferred from the Debt Service Reserve Fund, which moneys shall be deposited in the Interest Account and the Principal Account as provided in Section 5.04.

(b) The Trustee shall use moneys on deposit in the Bond Fund as follows:

(i) *Interest Account.* The Trustee shall use moneys in the Interest Account on each Interest Payment Date to pay interest on the Bonds as the same becomes due.

(ii) *Principal Account.* The Trustee shall use moneys in the Principal Account on each Principal Payment Date to pay the principal of the Bonds as they mature and to provide for any applicable sinking fund redemptions; provided, however, that on or before the 60th day immediately preceding any such sinking fund redemption date the City may instruct the Trustee to use any amounts in the Principal Account for the purchase of Bonds as described in Section 3.01(b) hereof.

(iii) *Redemption Account.* The Trustee shall deposit in the Redemption Account any moneys transferred from any other fund or account under this Indenture as provided herein or received from the City to redeem Bonds pursuant to any optional or extraordinary redemption provisions exercised by the City; provided, however, at its option, to be exercised on or before the 60th day immediately preceding any redemption date, the City may instruct the Trustee to apply any amounts in the Redemption Account to the purchase of Bonds to the same extent and in the same manner as described in Section 3.01(b) hereof with respect to the purchase of Bonds subject to sinking fund redemption. The Trustee shall use such moneys to redeem or purchase Bonds in accordance with such provisions. The City shall receive a credit against its future sinking fund redemption obligation for any Bonds purchased or redeemed as provided in Section 3.01(e) hereof.

(c) Moneys in the Interest Account and the Principal Account shall be deemed used in order of receipt and any carry-over amount in the Interest Account or in the Principal Account after a payment on the Bonds shall be deemed to arise from the funds most recently deposited in the Interest Account or the Principal Account prior to such date.

(d) Earnings from investment of the Bond Fund shall be retained in the Bond Fund as received and credited against other payments thereto as applicable.

ARTICLE III

MISCELLANEOUS

Section 3.01. Limitation of Rights. With the exception of rights herein expressly conferred, nothing expressed or mentioned in or to be implied from this Supplemental Indenture is intended or shall be construed to give to any person or company other than the parties hereto and the owners of the Bonds, and assignees and subrogees thereof, any legal or equitable right, remedy or claim under or in respect to this Supplemental Indenture or any covenants, conditions and provisions herein contained; this Supplemental Indenture and all of the covenants, conditions and provisions hereof being intended to be and being for the sole and exclusive benefit of the parties hereto and the owners of the Bonds and assignees and subrogees thereof as herein provided.

Section 3.02. Severability. If any provision of this Supplemental Indenture shall be held or deemed to be or shall, in fact, be illegal, inoperative or unenforceable, the same shall not affect any other provision or provisions herein contained or render the same invalid, inoperative or unenforceable to any extent whatever.

Section 3.03. Counterparts. This Supplemental Indenture may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 3.04. Applicable Provisions of Law; Officers, Members of City Not Liable. This Supplemental Indenture shall be governed by and construed in accordance with the laws of the State. No covenant, agreement or obligation contained herein shall be deemed to be a covenant, agreement or obligation of any present or future officer, member, employee or agent of the City. No officer, member, employee or agent of the City shall incur any personal liability with respect to any other action taken by him pursuant to this Supplemental Indenture, provided such officer, member, employee or agent does not act in bad faith.

Section 3.05. Captions or Headings in this Supplemental Indenture. The captions or headings in this Supplemental Indenture are for convenience only and in no way define, limit or describe the scope or intent of any provisions or Sections of this Supplemental Indenture.

Section 3.06. Effectiveness. This Supplemental Indenture and all terms and provisions herein contained shall form a part of the Indenture as fully and with the same effect as if all such terms and provisions had been set forth therein, and the Indenture as amended by this Supplemental Indenture remains in full force and effect in accordance with the terms and provisions thereof, and the parties hereto hereby acknowledge and confirm the same.

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IN WITNESS WHEREOF, the City and the Trustee have caused this Supplemental Indenture to be executed in their respective corporate names by their duly authorized officers, all as of the date first above written.

CITY OF ATLANTA, GEORGIA

(SEAL)

By _____
Mayor

ATTEST:

Municipal Clerk

U.S. BANK NATIONAL ASSOCIATION,
as Trustee

By _____
Name _____
Title _____
Its _____